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IN THE

Supreme Court of the United States

October Term, 1969

No. 108

THE COLONNADE CATERING CORP.,

Petitioner,

against

UNITED STATES OF AMERICA,

Respondent.

PETITIONER'S REPLY BRIEF

O. JOHN ROGGE
1501 Broadway
New York, New York 10036

JEROME M. STEMBER
350 Fifth Avenue
New York, New York 10001

Attorneys for Petitioner

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PETITIONER'S REPLY BRIEF

In a recent case, *Finn's Liquor Shop, Inc.* v. *State Liquor Authority,* 24 N.Y. 2d 647 (1969), the New York Court of Appeals applied *See* v. *City of Seattle,* 387 U.S. 541 (1967), *Camara* v. *Municipal Court,* 387 U.S. 523 (1967), as well as *Mapp* v. *Ohio,* 367 U.S. 643 (1961), to a warrantless search and seizure by inspectors of the New York State Liquor Authority, despite the fact that New York Alcoholic Beverage Control Law, §17, subd. 7, and §106, subd. 15, permit representatives of the State Liquor Authority to inspect any and all premises where alcoholic beverages are manufactured or sold. Chief Judge Fuld

in the court's opinion, after citing *See* and *Camara*, continued:

> "* * * In *See* (387 U.S. 541, *supra*), the Supreme Court invalidated a local ordinance which, similar to the provisions relied upon by the Authority, required owners of business establishments to permit administrative inspections of their premises without a warrant. The court held that, with respect to those portions of business property not open to the public, the Fourth Amendment protections apply. In reaching that conclusion, the court declared (p. 543):
>
> > " 'The businessman, like the occupant of a residence, has a constitutional right to go about his business free from unreasonable official entries upon his private commercial property. The businessman, too, has that right placed in jeopardy if the decision to enter and inspect for violation of regulatory laws can be made and enforced by the inspector in the field without official authority evidenced by a warrant.'
>
> "Although the court did indicate that the Constitution might not inhibit certain narrowly defined inspection procedures (cf. *Colonnade Catering Corp.* v. *United States*, 410 F. 2d 197), the implication of the decision in the *See* case is clear. No State may require, as a condition of doing business, a blanket submission to warrantless searches at any time and for any purpose. Applying this principle to the present case, it follows that the investigator's entry into the back room of the store and, particularly, his search of the coat may not be constitutionally justified." 24 N. Y. 2d at 658.

Conclusion

It is respectfully submitted that just as the New York Court of Appeals in *Finn's Liquor Shop, Inc.* v. *State Liquor Authority,* 24 N.Y. 2d 647 (1969), applied *See* v. *City of Seattle,* 387 U.S. 541 (1967), to warrantless seizures by inspectors of the New York State Liquor Authority, so the Court should grant certiorari in the instant case and hold *See* applicable to warrantless seizures by agents of the Internal Revenue Service.

Respectfully submitted,

O. John Rogge
Jerome M. Stember
Attorneys for Petitioner